

**Rule 55. Default****55.01 Judgment**

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend within the time allowed therefor by these rules or by statute, and that fact is made to appear by affidavit, judgment by default shall be entered against that party as follows:

(a) When the plaintiff's claim against a defendant is upon a contract for the payment of money only, or for the payment of taxes and penalties and interest thereon owing to the state, the court administrator, upon request of the plaintiff and upon affidavit of the amount due, which may not exceed the amount demanded in the complaint or in a written notice served on the defendant in accordance with Rule 4 if the complaint seeks an unspecified amount pursuant to Rule 8.01, shall enter judgment for the amount due and costs against the defendant.

(b) In all other cases, the party entitled to a judgment by default shall apply to the court therefor. If a party against whom judgment is sought has appeared in the action, that party shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If the action is one for the recovery of money only, the court shall ascertain, by a reference or otherwise, the amount to which the plaintiff is entitled, and order judgment therefor.

(c) If relief other than the recovery of money is demanded and the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment, it may take or hear the same or order a reference for that purpose, and order judgment accordingly.

(d) When service of the summons has been made by published notice, or by delivery of a copy outside the state, no judgment shall be entered on default until the plaintiff shall have filed a bond, approved by the court, conditioned to abide such order as the court may make concerning restitution of any property collected or obtained by virtue of the judgment in case a defense is thereafter permitted and sustained; provided, that in actions involving the title to real estate or to foreclose mortgages thereon such bond shall not be required.

(e) When judgment is entered in an action upon a promissory note, draft or bill of exchange under the provisions of this rule, such promissory note, draft or bill of exchange shall be filed with the court administrator and made a part of the files of the action.

(Amended effective January 1, 1992.)

***Task Force Comment - 1991 Adoption***

*Rule 55.01(e) is derived from Rule 12(c) of the Code of Rules for the District Courts.*

*The change in subsection (a) is intended to deal with the situation of notice of the amount of judgment sought in those cases where the complaint seeks only an unspecified amount in excess of \$50,000 pursuant to Minn. R. Civ. P. 8.01 (rule limits ad damnum clauses for unliquidated damages) and Minnesota Statutes 1990, section 544.36 (statute providing same limitation).*

**55.02 Plaintiffs; Counterclaimants; Cross-Claimants**

This rule is applicable whether the party entitled to judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases, a judgment by default is subject to the limitations of Rule 54.03.